

CJ-2020-2100
Prince

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

AES SHADY POINT LLC formerly known
as AES SHADY POINT INC., a Delaware
limited liability company,

Plaintiff,

v.

OKLAHOMA GAS & ELECTRIC
CORPORATION, an Oklahoma
corporation,

Defendant.

MAY 08 2020

RICK WARREN
COURT CLERK

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Case No.

CJ - 2020 - 2100

PETITION

COMES NOW, AES SHADY POINT LLC, formerly known as AES SHADY POINT INC. ("AES") and for its Petition against OKLAHOMA GAS & ELECTRIC CORPORATION ("OG&E") states and alleges as follows:

1. AES is a Delaware limited liability company with its principal operational office located in Le Flore County, Oklahoma.
2. OG&E is an Oklahoma corporation and public utility with its principal place of business located in Oklahoma City, OK.
3. Both jurisdiction and venue are proper before this Court.

FACTS

4. On or about the 10th day of December, 1985, AES and OG&E entered into that certain Amended Power Sales Agreement (hereinafter "Agreement") wherein, among other provisions, AES agreed to commit all of its electrical generation capacity from its co-generation power facility located in Panama, Oklahoma, to OG&E.

5. As is more specifically set forth in the parties' long term Agreement, OG&E is obligated to pay AES for said power generation capacity at agreed times, and in accordance with agreed payment calculations.

6. The Agreement was amended and/or extended several times over the life of the Agreement; however, in January of 2019 OG&E sent AES a notice that it intended to terminate the Agreement and no longer renew the same.

7. OG&E thereafter entered into separate negotiations with AES to purchase its power generation assets/facility located in Panama, Oklahoma. Said negotiations resulted in the sale of AES' power generation assets to OG&E in May of 2019.

8. As part of the winding up of the business relationships between OG&E and AES, AES notified OG&E that it owed AES a reconciled balance of contracted for payments, including a final month's power payment, in accordance with the terms of the Agreement. However, OG&E disputed AES' entitlement to the amount AES indicated it was owed, and refused to pay AES the amount requested.

9. OG&E has failed and refused to pay AES the final payments owed, in the amount of \$7,670,022.00, and OG&E is wholly in default of its obligations under the terms of the Agreement.

10. AES has notified OG&E of its breach and default of the Agreement; however, OG&E has failed to cure its default or pay the amounts owed as demanded by AES.

BREACH OF CONTRACT

For AES' Cause of Action against OG&E, AES incorporates by reference paragraphs 1 through 10 above as if set forth herein.


11. OG&E's failure to make the final payment owed AES under the terms of the parties' Agreement constitutes a material default and breach of OG&E's obligations thereunder.

12. AES has been damaged in the amount set forth above as a direct result of OG&E's failure to comply with its contractual obligations to AES and AES is entitled to judgment against OG&E for all amounts owed.

13. Pursuant to the terms of the parties' Agreement and by law, AES is also entitled to its fees and costs incurred herein.

Wherefore, premises considered, AES prays for judgment against OG&E for all relief set forth herein, plus interest, costs and attorney's fees, as well as any and all other relief to which it might be entitled.

Respectfully submitted,



James M. Reed, OBA #7466
Tami J. Hines, OBA #32014
Carson K. Glass, OBA #32783
**HALL, ESTILL, HARDWICK, GABLE,
GOLDEN & NELSON, P.C.**
320 South Boston Avenue, Suite 200
Tulsa, OK 74103-3706
Telephone (918) 594-0400
Facsimile (918) 594-0505
**ATTORNEYS FOR PLAINTIFF,
AES SHADY POINT LLC, f/k/a AES
SHADY POINT INC., A DELAWARE
LIMITED LIABILITY COMPANY**